

February 9, 2007

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L06VA007**

**REINHARD BIERMANSKI**  
Variance Appeal

Location: 13700 Beacon Coal Mine Road South (temporary address), Renton

Applicant &  
Appellant: Reinhard Biermanski  
*represented by* **Robert Johns**, Attorney  
Johns Monroe Mitsunaga PLLC  
1601 – 114th Avenue Southeast, Suite 110  
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King County: Department of Development and Environmental Services (DDES)  
*represented by* **Barbara Heavey**  
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**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Grant the appeal

**EXAMINER PROCEEDINGS:**

Hearing Opened:	January 25, 2007
Hearing Closed:	January 25, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

#### ISSUES AND TOPICS ADDRESSED:

Variance criteria:

Unique topography or location; deprivation of rights and privileges enjoyed by other properties; and unnecessary hardship.

#### SUMMARY:

A variance from the I-SO special district overlay parking requirements is granted for the subject property.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

#### FINDINGS:

1. The subject property is King County Assessors Parcel Number 0001400036, located at 13700 Beacon-Coal Mine Road South, in King County, Washington. The property comprises 6.55 acres, bordered on the east by 68th Avenue South and on the west by Beacon-Coal Mine Road South.

On the north boundary, the property is bordered by two parcels that are substantially developed for industrial use. The larger part of the north property line abuts property occupied by Holcam, Inc., (parcel number 0001400035). This property is developed with two industrial buildings and surface parking. The remainder of the north property line (and that portion of the east property line not abutting 68th Avenue South) abuts property occupied by Engineered Polymer Solution (parcel number 0001400023), also developed for industrial use with several buildings and surface parking.

The south property line abuts two small parcels, approximately 1-2 acres each, that are considered undeveloped, although the western parcel is utilized by Statewide Rent-A-Fence as a fencing storage and assembly facility, and the eastern parcel has a residential structure built in 1945. These two small parcels are the southernmost portion of the I-SO overlay district zone that includes the subject property.

2. 139 acres in this location were zoned I-SO in 1994. 70 acres of the 139 were subsequently annexed to the City of Renton, where most has been subdivided for industrial development without requirements for parking comparable to the I-SO standards. The adjacent property to the north of the subject property (which abuts approximately 70% of the northern boundary of the subject property) has been developed by Holcam Sales, Inc. One of the two buildings constructed on the Holcam property was constructed in 1999, without being required to meet the parking requirements of the I-SO zone.
3. There presently remains within unincorporated King County approximately 60 acres zoned I-SO in this location. The area zoned I-SO is bounded on the north by Martin Luther King Jr. Way

South, on the east by 68th Avenue South, on the south by Beacon-Coal Mine Road South, and on the west by Beacon-Coal Mine Road South and existing railroad tracks.

4. The sole access to the subject property is from Beacon-Coal Mine Road South, south of the Holcam property. Access to 68th Avenue South is precluded by steep topography.

The subject property and the two small adjacent properties to the south are isolated from the larger undeveloped portion of the special overlay district area by topography and developed industrial uses.

5. The applicant offered convincing testimony that the parking requirements of the I-SO zone classification make it uneconomic to develop the subject property, because the uses that would require and justify construction of the parking required by the special overlay zone are highly unlikely to occupy this property. Development consistent with the parking requirements of the I-SO zone has not occurred, and cannot reasonably be expected to occur.
6. The adjacent Holcam property to the north was permitted to construct a second industrial building subsequent to 1994 without the parking required by the I-SO zone classification.

Most of the area zoned I-SO in 1994 which was subsequently annexed to the City of Renton has been permitted to develop for industrial use without the parking requirements of the I-SO zone classification or comparable requirements.

7. Only two other small parcels are situated similarly to the appellant's property, adjacent to Beacon-Coal Mine Road South, immediately south of the subject property. The remaining undeveloped (or underdeveloped) I-SO property is oriented to Martin Luther King Jr. Way South and the northwesterly portion of Beacon-Coal Mine Road South, north of the Holcam Sales property. That undeveloped property is functionally isolated by steep topography and intervening industrial uses from the appellant's property.
8. An office/research park area, in a pedestrian oriented, campus-type setting, cannot reasonably be developed on the area occupied by the subject property and adjacent undeveloped properties. Enforcement of the parking requirements of the I-SO zone classification on the appellant's property is unnecessary, based upon the type of use that can reasonably be expected to occur on the subject property. Enforcement of those requirements creates a hardship for the property owner by precluding development of the property for industrial purposes.

#### CONCLUSIONS:

1. Special circumstances affect this property that do not apply generally to other properties in this zone. In particular, the unique topography and location of the subject property justify a variance from the parking requirements of the I-SO zone classification.
2. The applicant has demonstrated by a preponderance of the evidence that the subject property is deprived, under the I-SO zone classification requirements concerning parking, of rights and privileges that have been and are enjoyed by other properties in the vicinity under an identical zone.

3. Strict enforcement of the parking requirements of the I-SO zone classification creates an unnecessary hardship to the owner of the subject property.
4. The minimum variance from the parking requirements necessary to grant reasonable relief to the applicant would modify the parking requirements to those applicable to the specific uses for which the subject property is proposed to be developed, consistent with the standards of the underlying zone classification. The additional parking and structured parking requirements of the special overlay district should be eliminated for the subject property.
5. In all other respects, the decision of the responsible official, "Zoning Variance Report and Decision", dated October 12, 2006 and transmitted on October 13, 2006, should be affirmed.

DECISION:

The appeal by Reinhard Biermanski of the zoning variance report and decision dated October 12, 2006 and transmitted October 13, 2006, is GRANTED. The responsible official's decision is modified to grant a variance from the parking standards of the I-SO zone to those of the underlying zone classification for the proposed use of the property. In all other respects the decision of the responsible official is affirmed.

ORDERED this 9th day of February, 2007.

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James N. O'Connor  
King County Hearing Examiner *pro tem*

TRANSMITTED this 9th day of February, 2007, to the following parties and interested persons of record:

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## NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County on appeals of zoning variance decisions. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

### MINUTES OF THE JANUARY 25, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06VA007.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Barbara Heavey representing the Department, Robert Johns and Jason Walker representing the Appellant, and Reinhard Biermanski.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner for January 25, 2007
- Exhibit No. 2 Zoning Variance Report and Decision, KC file no. L06VA007, dated October 12, 2006, and transmitted (issued) on October 13, 2006
- Exhibit No. 3a Notice of Appeal received October 26, 2006
- 3b Statement of Appeal received October 26, 2006
- Exhibit No. 4 Excerpts from the West Hill Community Plan and Area Zoning: Title page and pages 27, 28, 79-81, and 88
- Exhibit No. 5 Email from Paul McCombs to Barbara Heavey sent October 9, 2006
- Exhibit No. 6 Zoning Code Variance application L06VA007, received June 6, 2006
- Exhibit No. 7 DDES main project file for L06VA007
- Exhibit No. 8 King County iMap of Vicinity, ©2005 King County
- Exhibit No. 9 Landscape/Planting plan for proposed development, dated Dec. 18, 2003

JNO:gao  
L06VA007 RPT